

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
MOTOROLA, INC.	)	
	)	
Petition to Deny	)	FCC File No. 0003976849
and	)	
Petition for Reconsideration	)	FCC File No. 0004295620
	)	
Filed by Environmental LLC, Verde Systems	)	
LLC, Telesaurus Holdings GB LLC, Intelligent	)	
Transportation & Monitoring Wireless LLC, and	)	
Skybridge Spectrum Foundation	)	

**ORDER AND ORDER ON RECONSIDERATION**

**Adopted: November 29, 2011**

**Released: November 30, 2011**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. This *Order and Order on Reconsideration* addresses pleadings filed by Environmental LLC, Verde Systems LLC (Verde), Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and Skybridge Spectrum Foundation (collectively Petitioners) regarding assignment applications filed by Motorola, Inc. (Motorola). Petitioners filed a petition to deny Motorola's application<sup>1</sup> to assign part of the license for VHF Public Coast (VPC) Station WQHE711 to East Kentucky Power Cooperative, Inc. (EKPC).<sup>2</sup> Petitioners also filed a petition for reconsideration of the action consenting to Motorola's application<sup>3</sup> to assign part of the license for VPC Station WQHE710 to Mobile Communications of Gwinnett, Inc.<sup>4</sup> Because the two petitions raise overlapping issues, we address them together for administrative convenience.<sup>5</sup> For the reasons set forth below, we deny both petitions with respect to the above-captioned applications.<sup>6</sup>

2. Neither petition presents information or arguments pertaining specifically to these assignment applications. Instead, Petitioners argue that Motorola's applications to assign VPC spectrum to third parties should be dismissed because the Commission should not have consented to prior applications to assign that spectrum to Motorola from MariTEL, Inc. (MariTEL).<sup>7</sup> Petitioners (except Verde) filed a petition for reconsideration of the consent to the MariTEL-Motorola assignment

<sup>1</sup> FCC File No. 0003976849 (filed Nov. 13, 2009).

<sup>2</sup> Petition to Dismiss or Deny, Or in the alternative Section 1.41 Request (filed Dec. 2, 2009) (Petition to Deny). Motorola filed an opposition. Petitioners filed a reply and a supplement.

<sup>3</sup> FCC File No. 0004295620 (filed July 16, 2010).

<sup>4</sup> Petition for Reconsideration, or in the Alternative Section 1.41 Request (filed Aug. 20, 2010) (Petition for Reconsideration). Motorola filed an opposition.

<sup>5</sup> See Mobex Network Services, LLC, *Memorandum Opinion and Order*, 25 FCC Rcd 3390, 3391 n.7 (2010).

<sup>6</sup> The Petition to Deny also addresses an application filed by MariTEL Mississippi River, Inc. to assign VPC spectrum to EKPC, FCC File No. 0004029237. This *Order and Order on Reconsideration* does not address that application, and the Petition to Deny remains pending with respect thereto.

<sup>7</sup> See Petition to Deny at 7-17; Petition for Reconsideration at 7-10.

applications, which was dismissed.<sup>8</sup> They then filed an application for review, which the Commission denied.<sup>9</sup> They then filed another petition for reconsideration, which the Commission dismissed.<sup>10</sup>

3. The Commission has rejected Petitioners' challenge to the MariTEL-Motorola assignment applications. We will not entertain collateral attacks on those applications in proceedings regarding subsequent applications filed by Motorola relating to that spectrum.<sup>11</sup> We therefore deny the instant petitions regarding the above-captioned applications.<sup>12</sup>

4. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.939 of the Commission's Rules, 47 C.F.R. § 1.939, the Petition to Dismiss or Deny, Or in the alternative Section 1.41 Request filed on December 2, 2009 by Environmental LLC, Verde Systems LLC, Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and Skybridge Spectrum Foundation IS DENIED IN PART to the extent set forth herein, and application FCC File No 0003976849 SHALL BE PROCESSED in accordance with this *Order and Order on Reconsideration* and the Commission's Rules.

5. IT IS FURTHER ORDERED that the Petition for Reconsideration, or in the Alternative Section 1.41 Request filed on August 20, 2010 by Environmental LLC, Verde Systems LLC, Telesaurus Holdings GB LLC, Intelligent Transportation & Monitoring Wireless LLC, and Skybridge Spectrum Foundation IS DENIED.

6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

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<sup>8</sup> The petition for reconsideration was dismissed because Petitioners did not explain why they could not have participated earlier in the proceeding. *See* Motorola, Inc., *Order*, 22 FCC Rcd 579, 583-85 ¶¶ 7-13 (WTB MD 2007).

<sup>9</sup> The application for review was denied because Petitioners did not identify any facts that arose too late for them to participate earlier, or explain why they could not, through the exercise of ordinary diligence, have ascertained any such facts earlier. *See* Motorola, Inc. *Memorandum Opinion and Order*, 25 FCC Rcd 455, 456 ¶ 4 (2010).

<sup>10</sup> The petition for reconsideration was dismissed as repetitious. *See* Motorola, Inc., *Order on Reconsideration*, FCC 11-174, ¶ 10 (rel. Nov. 29, 2011).

<sup>11</sup> Motions for Declaratory Ruling Regarding Commission Rules and Policies for Frequency Coordination in the Private Land Mobile Radio Services, *Memorandum Opinion and Order*, 14 FCC Rcd 12752, 12757 ¶ 11 (1999) (citing MCI Telecommunications Corp. v. Pacific Northwest Bell Telephone Co., *Memorandum Opinion and Order*, 5 FCC Rcd 216, ¶ 41 n.38 (1990), *recon. denied*, 5 FCC Rcd 3462 (1990), *appeal dismissed sub nom.* Mountain States Tel. and Tel. Co. v. FCC, 951 F.2d 1259 (10th Cir. 1991) (*per curiam*)).

<sup>12</sup> *See also* Harold Pick, *Order on Reconsideration*, 22 FCC Rcd 730, 731-32 ¶ 6 (WTB MD 2007) (petition to deny application based on applicant's character qualifications was denied where the license had been assigned to a third party with no connection to the alleged misconduct).